

UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF NORTH CAROLINA

U.S.A. vs. James Ellis Upchurch

Docket No. 5:02-CR-118-1BO

Petition for Action on Supervised Release

COMES NOW Arthur B Campbell, U.S. Probation Officer of the court, presenting a petition for modification of the Judgment and Commitment Order of James Ellis Upchurch, who, upon an earlier plea of guilty to Possession of Ammunition by a Convicted Felon, 18 U.S.C. § 922(g)(1) and 924(a)(2), was sentenced by the Honorable Terrence W. Boyle, U.S. District Judge, on December 12, 2002, to the custody of the Bureau of Prisons for a term of 180 months. It was further ordered that upon release from imprisonment the defendant be placed on supervised release for a period of 36 months.

James Ellis Upchurch was released from custody on May 16, 2016, at which time the term of supervised release commenced.

On July 5, 2016, a Violation Report was sent to the court reporting a positive drug test for marijuana on June 13, 2016.

On November 1, 2016, a Violation Report was sent to the court reporting a positive drug test for marijuana on October 13, 2016.

On February 1, 2017, a Motion for Revocation Hearing was held due to the defendant's continued drug use. The defendant admitted to the use of marijuana on December 16, 2017. Subsequent urinalysis testing revealed the sample was positive for marijuana and cocaine. Additionally, on December 27, 2016, the defendant tested positive for the use of cocaine. At the Revocation Hearing, the defendant's term of supervision was revoked. He was taken into custody for one day and placed on a new 36 month term of supervised release. The defendant was also given the opportunity to participate in the HOPE Court Program.

On February 27, 2017, a Violation Report was sent to the court reporting a positive drug test for cocaine on February 16, 2017. Additionally on February 23, 2017, the defendant signed an admission form admitting to using cocaine and marijuana prior to his drug test on February 16, 2017.

On March 20, 2017, a Violation Report was sent to the court reporting that on March 11, 2017, in Wake County, North Carolina, with Operating a Vehicle With No Insurance, Speed in Excess of 45 MPH, and Reckless Driving to Endanger. The probation office recommended that this case be allowed to resolve itself in state court with no further action taken by the court. The court concurred.

On April 6, 2017, a Violation Report was sent to the court regarding a positive drug test for Cocaine on March 27, 2017. The court concurred with the recommendation of the HOPE Court team's sanction of 10 hours of community service.

On June 7, 2017, a Petition For Action on Supervised Release was submitted to the court in response to the defendant's use of alcohol while in treatment. A period not to exceed 60 days of Remote Alcohol Monitoring was added to the conditions of supervised release.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:

On December 7, 2017, the defendant was cited for Hit and Run in Wake County, North Carolina. The police information states that he was not found behind the wheel and had to be located. The defendant states he was not driving and was passed out from drinking. The defendant is a participant in the HOPE Court Drug/Reentry Program. The defendant has admitted that he is struggling with alcohol and as such we are requesting that the defendant be placed back on Remote Alcohol Monitoring for the duration of his time in the HOPE Court.

PRAYING THAT THE COURT WILL ORDER that supervised release be modified as follows:

1. The defendant shall abide by all terms and conditions of the Remote Alcohol Monitoring Program, as directed by the probation officer, for a period not to exceed 60 consecutive days.

Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Jeffrey L. Keller
Jeffrey L. Keller
Supervising U.S. Probation Officer

/s/ Arthur B Campbell
Arthur B Campbell
U.S. Probation Officer
310 New Bern Avenue, Room 610
Raleigh, NC 27601-1441
Phone: 919-861-8677
Executed On: December 14, 2017

ORDER OF THE COURT

Considered and ordered this 14 day of December, 2017, and ordered filed and made a part of the records in the above case.

Terrence Boyle
Terrence W. Boyle
U.S. District Judge